

MINUTES

MONTANA SENATE 56th LEGISLATURE - REGULAR SESSION

COMMITTEE ON JOINT SENATE RULES

Call to Order: By **CHAIRMAN JOHN HARP**, on December 18, 1998 at 10:15 A.M., in Room 325 Capitol.

ROLL CALL

Members Present:

Sen. John Harp, Chairman (R)
Sen. Bruce Crippen, Vice Chairman (R)
Sen. Tom A Beck (R)
Sen. Vicki Cocchiarella (D)
Sen. Steve Doherty (D)
Sen. Lorents Grosfield (R)
Sen. Mike Halligan (D)
Sen. Don Hargrove (R)
Sen. Linda Nelson (D)
Sen. Chuck Swysgood (R)
Sen. Fred Thomas (R)
Rep. Larry Grinde, Chairman (R)
Rep. Douglas Mood, Vice Chairman (R)
Rep. Shiell Anderson (R)
Rep. Ernest Bergsagel (R)
Rep. Marian Hanson (R).
Rep. Emily Swanson, Vice Chairman (D)
Rep. Hal Harper (D)
Rep. Dan Harrington (D)
Rep. Monica Lindeen (D)
Rep. Linda McCulloch (D)
Rep. John A. Mercer (R)
Rep. Karl Ohs (R)
Rep. Paul Sliter (R)
Rep. Cindy Younkin (R)

Members Excused: Sen. Mike Taylor (R)
Rep. Shiell Anderson (R)

Members Absent: Rep. Marion Hanson (R)
Rep. Ernest Bergsagel (R)

Staff Present: Greg Petesch, Legislative Services Division

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: Joint Rules for the House & Senate 56th Legislative Session.

Executive Action:

CHAIRMAN JOHN G. HARP welcomed everyone to the Joint Rules for the House and the Senate as they get ready for the 56th Legislature Session on January 4, 1999. He said they are going to try to get through the meeting as quickly as possible. The Senate Rules Committee was going to meet once we finish this hearing.

CHAIRMAN HARP said he had a proxy from **SEN. MIKE TAYLOR** that gives him the authority to vote on any and all matters considered by the Joint Rules Committee and on the Senate Rules Committee on December 18, 1999.

REP. GRINDE said he also had a written proxy by **REP. SHIELL ANDERSON**.

CHAIRMAN HARP asked if there were any comments from anyone before we go into some of the Select Rule's issues.

SPEAKER JOHN MERCER said he wanted to bring before the Joint Rules Committee an effort to try to hold the bills to less than two thousand. He had done a rough computation and if they limited all members to four requests effective today that would hold us to less than two thousand. He thought the Rules Committee was going to have to take charge of this issue and control it.

CHAIRMAN HARP asked **SPEAKER MERCER** if he wanted to address that issue now or at the end of the meeting.

SPEAKER MERCER said there were around two thousand bills introduced into the Legislative System in 1991. We implemented a voluntary, disciplinary system in 1993 where we asked members to restrict themselves to the number of bills. Unfortunately due to a one time cataclysmic effect here on government with a term limits, everybody was rushing to get things in. Certain issues connected with CI-75 may require bills that need more than one request. He would so move that they amend the Joint Rules to say that after December 5, 1998 instead of seven (7) the number has changed to four (4). If you look at the one thousand three

hundred where we are at now and if you give each member four that was six hundred potential additional bills. That would keep you under the two thousand bill mark. At the same time he would urge all leaders and members of the Rules Committee to make every effort to discipline not only themselves but ask others to do so. There are a lot of inequities and unfairness about it in the sense that there are people who haven't requested any bills as of this date and they would only have four more. The simplest thing they can do was to restrict it to four (4) and that way we know it will be kept less than two thousand.

CHAIRMAN HARP asked for discussion.

{Tape : One; Side : A; Approx. Time Counter : 2.8 - 3}

SEN. TOM BECK understood that many of these bills require four drafts in order to get that through because of CI-75. He wanted an explanation if it took up four bill drafts in order to get it through - was that what the purpose was?

Greg Petesch said he handled requests to date if the bill was requested prior to December 5, which was the date for unlimited requests, and we identified another bill needed to implement which was a legal request which was made at that point, he had split the supplemental bill from the original request and have not counted it against the requester limit. If we had identified it at that time, they could have requested the number of bills. As of December 5 if at the time the request was submitted, he could identify the number of bills needed, he had the member request that number of bills.

PRESIDENT CRIPPEN told **SPEAKER MERCER** he supported his idea. He thought they had an ordinate number of bills before us and they were going to have a lot of tough issues. When they go through the process if the Rules Committee of either House decides for one reason or another that they would want to waive that rule, then we can do that. If we still have that ability unilaterally within our respective bodies, to do that, then fine.

{Tape : 1; Side : A; Approx. Time Counter : 5.8 - 6.1}

REP. DAN HARRINGTON asked if from December 5 they only have four bills and they introduced those before today, they wouldn't have any more bills according to **SPEAKER MERCER'S** motion.

SPEAKER MERCER said that would be correct.

REP. HARRINGTON said he would have some problem with that.

CHAIRMAN HARP said what they had done in the past was allowed a senator who has three or four requests to give that open request to another senator. He thought that was another avenue they could use to work together rather than make this a bigger issue than it was.

SEN. MIKE HALLIGAN said they had done a tremendous amount of work in the last several years to open this system up and make it more accessible. He has gotten frantic calls from state agencies and local governments that they haven't got a bill draft yet. He thought if they looked at those they are trying to make government more efficient. So, if the limit was four and he had an agency as opposed to a real person wanting him to do a bill draft, did he deny the agency and make sure that citizens had access to the process through the bill draft. He wanted to make sure that the people who only have access every two years to change the laws have got access. He guessed he could see focusing on government oriented bills and limiting those so that we could leave the citizens with an opportunity.

REP. HAL HARPER asked for a statement of the motion so he could understand the motion.

SPEAKER MERCER said that in our rules now where there was a seven-bill limits we would strike seven (7) and insert four (4).

REP. HARPER said in response to **PRESIDENT CRIPPEN'S** comments, the idea would then be that if you had a bill that you wanted to get in, a fifth bill, it would have to be approved by a motion to suspend the rules on both the entire floor of the House and the Senate. The Rules Committee would not have the authority to suspend the rules for that draft.

SPEAKER MERCER said that was his understanding of the current Rules and they would remain in effect.

PRESIDENT CRIPPEN said they can't unilaterally as the Senate amend the Joint Rules. That had to be done with both Houses. The only concern he had was this "retroactive."

Greg Petesch, Legislative Division Services, said the amendment was to Rule 40-40 and its subsection 1 (b). The way that rule works now was that after 5:00 p.m. on December 5 a member may request no more than seven (7) bills - five (5) of which had to be requested prior to the convening of the session or they are lost. He would seek clarification as when the seven (7) was changed to four (4) as to whether two of those would have to be requested prior to the convening of the session or they would be lost or if the four (4) could be requested after the session

which would in effect give us more bills when we are at our busiest.

{Tape : 1; Side : A; Approx. Time Counter : 11.2 - 12.1}

SPEAKER MERCER stated whatever people have requested to date, does not matter. So if you had requested seven (7), those were good solid requests. From this date forward, you only get a total of four from December 5. If you have already requested seven (7) than that was more than four (4) so you are done but you do not lose the three you have requested. The two during the Session Rule would stand. So you have four (4) requests between now and the start of the Session. If you don't use any of those requests now and the Session starts, it has gone from four (4) to two.

CHAIRMAN HARP asked if there was any discussion.

PRESIDENT CRIPPEN asked if anybody else has any problem with the fact that we are going back to the 5th and using that as the date. Does anyone see a problem other than **SEN. FRED THOMAS** and myself?

CHAIRMAN HARP asked if anyone would like to respond to **SEN. CRIPPEN'S** question.

SEN. STEVE DOHERTY stated if we have folks who have been carefully trying to deal with the Rules as they understood them, to move it back, he thought they could catch some people unaware. He thought it would be potentially unfair to make it a retroactive rule because people understood the rules.

CHAIRMAN HARP said the letter they got from **Bob Pearson** dated on the 15th also concerned the amount of preparations for drafting and preparing. He thought that was one of the major concerns. We may be able to refer them and have a procedure on handling those bills because of CI 75. There was no question that it was going to have an impact on how they were going to conduct their business. Further Discussion.

{Tape : 1; Side : A; Approx. Time Counter : 17.3 - 19}

SPEAKER MERCER withdrew the motion. The basic concept would be that whatever other rules are in effect right now after today no member may request more than four (4) bills. So what it attempts to do was take away the concerns that some people have that they aren't going to have any more. There are a couple of people that would. There was no way the Rules Committee can make it fair. Maybe it could be just a temporary rule in the Rules for this

Session that as of, whatever time we can pass this thing, the sooner the better, it would be effective that second. Each member would be then restricted to four (4) additional requests. All the other things would apply so that you would only have two (2) when the session started.

CHAIRMAN HARP asked for further discussion on the new motion which basically would take effect upon passage.

SEN. HALLIGAN asked if he already had his four (4) in, even as of today he wouldn't have any other opportunities to put anything else in. Was that what this motion meant?

{Tape : 1; Side : A; Approx. Time Counter : 19.6}

Greg Petesch said that would not be correct.

SPEAKER MERCER said let's check on you and see how you are doing now. You have four against your limits - so you have three still available. So you would still have those three available because we are saying from today on there was a maximum of four. But, someone who still had their seven (7), they would be lowered to four (4).

REP. HARPER said he was concerned about legislators who did not anticipate this kind of a rule coming out of the Rules Committee. **Mr. Petesch**, if a date of Wednesday or Tuesday next at 5:00 were set, would this give legislators enough time to receive word of this and act?

Greg Petesch told **REP. HARPER** depending on which day you choose, he assumed they would mail notice of the proposed rule change to all the members. Mail this season was somewhat problematical. They did, accept as everyone knows, phoned in requests, faxed request, and those sort of things. So as soon as they got notice of the change they could call with any requests prior to the new date being in effect. If they can get notice out people can, in essence, get requests in for one or two days prior to the new limit going in.

REP. GRINDE told **REP. HARPER** that he also shared his concerns about other legislators out there and in most cases this probably shouldn't take place. He thought they were facing a different situation here with the amount of bills that they have gotten. He just urged the committee to take a vote.

CHAIRMAN HARP asked for further discussion.

REP. HARPER said he appreciated the **SPEAKER'S** acknowledgment that in no way this was going to be fair. He wanted to make a substitute motion for them to vote on that the **SPEAKER'S** motion go into effect on Tuesday at 5:00 p.m. to give those people a change to put in those bills that their constituents want them to and he would offer that as a substitute motion.

CHAIRMAN HARP said he opposed that motion as the **SPEAKER** had the right to have his motion heard on and then we could go on to another one but he understood the motion. Discussion on the motion.

{Tape : 1; Side : A; Approx. Time Counter : 24.3}

Substitute Motion/Vote: **REP. HARPER** made a substitute motion.
Substitute motion failed.

CHAIRMAN HARP asked for discussion on the original motion.

SPEAKER MERCER stated that effectively upon passage of approval of bill limits there would be an extra bill limit temporarily put into the Rules of four (4). If you had already requested seven (7) since December 5, you still have zero. If you hadn't requested any than instead of seven (7) you would only have four (4) more starting today and various other combinations.

CHAIRMAN HARP stated that he was going to support the motion and speaking as a member of the Senate and Majority Leader, he would make every effort that if any Senator feels like he or she was not able to introduce a bill that was important to their district, he would make every effort to make sure that happens. Further discussion on the motion.

Motion/Vote: **SEN. SWYSGOOD** moved **LIMIT NUMBER OF BILLS**. Motion carried 16-9 with Cocchiarella, Doherty, Halligan, Nelson, Swanson, Harper, Harrington, Lindeen and McCulloch voting no.

CHAIRMAN HARP stated that a motion was needed to allow **Mr. Petesch** and the Legislative Services to enforce this rule change.

Motion: **SEN. SWYSGOOD** moved **ALLOW LEGISLATIVE SERVICES TO APPLY RULE CHANGE**. Motion carried.

CHAIRMAN HARP asked if there were any other issues that we would like to bring up prior to going into the Joint Rule changes? Let's take up 10-140 on voting as there was a change.

SPEAKER MERCER moved that Joint Rules be amended. This was simply a truth in government thing. Presently in order to divert tax payments that go into the Fund or to take money out of the fund requires a 3/4 vote. Everyone thinks it takes 3/4 vote to spend Coal Tax Trust money when, in fact, it does not require a 3/4 vote. There were a number of situations where money was suppose to go into the fund from interest payments or other payments that can be diverted by majority vote. They can carve money out of the account by keeping it in the account and spend the money by majority vote. He brought this issue to the forefront for the people of Montana that Coal Money was being diverted right now by majority vote and he thought it should all be done in the same way if everyone believes in the integrity of the Coal Tax Trust Fund.

{Tape : 1; Side : A; Approx. Time Counter : 30.5}

CHAIRMAN HARP asked for discussion on the motion.

SEN. DON HARGROVE thought it would affect matching funds for research and development for the University, which he thought were very important to Montana. It was his feeling that this was one of the major sources of revenue for the initial investment as well as for the continuing building of an endowment. He thought the program was important and so he would ask this committee to oppose this proposal.

PRESIDENT CRIPPEN asked **SEN. GROSFIELD**, as a member of the Select Committee on Jobs and Income, if there were areas or proposals this motion would affect so far as going from a majority vote to a 3/4 vote.

SEN. GROSFIELD said he was aware of at least one and probably two or three different things. He thought this motion would affect the 3/4 vote for that and he thought it can be done with a simple majority. There may be a water rights settlement proposed with the Crow Tribe and that would also use this sort of mechanism.

PRESIDENT CRIPPEN personally he had a difficult time in the legislative process when they have to go to anything beyond a majority vote. He didn't like the 3/4 vote to begin with. He thought it was an inappropriate position to put a Legislative Body in because we operate as a society on a majority rule not on a 3/4 vote rule. They would have to have a flood and they still wouldn't be able to get it. He would rather not support it.

REP. HARPER said he spoke in favor of this motion. They develop these little mechanisms to take the money out of the trust with a majority vote and then go around and talk about how we are not

going to bust the Trust. He had always been a proponent of using that money for the things that they need in the state.

CHAIRMAN HARP asked for further discussion on the motion.

{Tape : 1; Side : A; Approx. Time Counter : 37.9}

SEN. DOHERTY said he would speak against the motion. He thought there was a substantial difference between a constitutional requirement voted on by the people of Montana which has stood the test of time for some twenty odd years and a proposal to amend the rules by which the Legislature operates.

SEN. GROSFIELD asked if the way this reads, it says the second part talks about allocating funds within the Trust Fund for a specific purpose and it requires 3/4 vote. He assumed that means if they wanted to change the allocation of the amount that goes to libraries as to the amount that goes to conservation districts that would require a 3/4 vote.

Greg Petesch stated the two sources you just addressed are the non dedicated 50 per cent. So those were already not going into the Trust Fund. Any change in those would not require 3/4 vote under this rule proposal.

SEN. GROSFIELD said if we are going to approve those to various local jurisdictions, let's say for infrastructure, are those approvals? That was allocations of funds, was that a 3/4 vote requirement?

Greg Petesch said he didn't believe so because the actual projects are funded with the interest income from the Treasure State portion of the Coal Trust Fund so what would require a 3/4 vote under this proposal would be to establish the set aside of the percentage of funds as was done with Treasure State Endowment originally, or to increase the set aside for something like Treasure State Endowment.

SEN. GROSFIELD said any change to that set aside would require 3/4 vote - change increase or decrease. He thought he would speak in opposition of this as well.

{Tape : 1; Side : B; Approx. Time Counter : 1.4}

CHAIRMAN HARP asked for further discussion.

Motion/Vote: **SEN. HARGROVE** moved **TO AMEND THE JOINT RULES.**
Motion failed in the Senate and no House vote was taken.

CHAIRMAN HARP said the next issue was 40-40 bill request.

Greg Petesch stated it was a rule change that was necessitated by our new drafting system by which we have virtual sharing of information with the public through the Internet. The way that system works it was not programed to allow requests to be changed. He wanted to clarify that this was only request. So that for example, **CHAIRMAN HARP**, when you make a request we can then on the system later assign that request to **SEN. GROSFIELD**. It was also because we have built in counting mechanisms against request limits that are in place. This does not impede the ability of you to hand off that request to **SEN. GROSFIELD** for introduction. So there has never been a need to change who the requester was but it was almost impossible now.

SEN. HALLIGAN spoke in favor of this change.

Motion/Vote: SEN. HALLIGAN MOVED TO ACCEPT 40-40. Motion carried unanimously.

CHAIRMAN HARP asked they comment on 45-83.

{Tape : 1; Side : B; Approx. Time Counter : 4.4}

Motion: Speaker Mercer moved adoption of remaining amendments.

SPEAKER MERCER said he would move the adoption of all the remaining amendments as they all relate to the same thing. They deal with the Select Committee on Jobs and Income. Essentially what the motion would allow if this were to pass would be to exempt that committee from the sudden death deadline that other interim committees face with regard to legislation that they requesting and drafting.

The next thing it attempts to do is to create an effort to fast track the legislation. He thought everyone recalled the purpose of the Job and Income Committee meeting prior to the Session was to try to do something rapidly that could impact Montana's economy. If this were put into the Rules it would say that on Tuesday or Wednesday that the Session first meets, the Jobs and Income Select Joint Committee could meet and hold a public hearing on whatever bills they intend to kick out and when they kicked those bills depending on whether it was a Senate or House sponsor, it would go to the appropriate chamber then if the bill was not amended then at the judgement of the next chamber the bill could go directly to the floor of the other chamber since it had already been heard by a joint committee of both Houses and the public has had an opportunity to address it and it had not been changed in any fashion it was simply a way of trying to

speed things up. The other thing was, if you break down the bills that the Joint Select Committee believed are ready to be passed and start sending them through the regular system, it was going to be a big delay. He thought would defeat the whole purpose of the reason that committee was created in the first place.

CHAIRMAN HARP asked if everybody clear on exactly what they are doing now.

PRESIDENT CRIPPEN has a question for **Mr. Petesch**. We can refer this directly to Second Reading. He didn't particularly have a problem with that at that point and time. We do that and often we do have a possibility of appropriations in a committee. We hear a bill and the aspects of it but then it goes to the House Finance and Claims and they deal with the appropriation. Appropriation has to start even then in the House. The way he read this if the bill was passed by the House of origin, in this case the House of Representatives, the bill may be referred to the other House. The House of Representatives then had the option, it says it may be referred, who refers it?

Mr. Petesch said he should probably apologize for the way in which this proposal was drafted but you are wrong. The Constitution requires that in order for a bill to be enacted it has to be voted on in the same form by both bodies. The intent of this was as the Speaker explained. The bill may be placed on Second Reading if it was not amended in the first House because the Joint Committee would constitute a Senate hearing on the bill. However, for purposes of easing your concern and clarifying the language, he thought if the Senate's second sentence read, if the bill was passed by the bill of origin, the bill must be transferred to the other House and may be placed on Second Reading without the need to refer it to a committee.

SEN. DOHERTY said he had been attempting to come up to snuff on what a Select Committee was and what powers it has and he thought it might be a very useful thing if at some point during the interim they actually sat down and tried to figure out what Select Committees were. How they are appointed, what their charge was, what the make up was and exactly what powers they have. In my review of the Rule book, he had not found anything about Select Committees.

CHAIRMAN HARP said the bill comes out of the Select Committee and comes to the Committee of the Whole, the majority of the House had to support of it, so in fact there was no minority for that in the example.

SEN. DOHERTY stated there was a minority in getting it to Second Reading.

CHAIRMAN HARP said ultimately as far as leaving one Chamber it would have to be the majority of that Chamber supporting it.

{Tape : 1; Side : B; Approx. Time Counter : 14.6}

PRESIDENT CRIPPEN said he could see why **SEN. Doherty** was concerned. He had no problem with the fast track, especially with a lot of bills and we only have ninety (90) days. The majority can always blast something out of the Committee right to the Second Reading but we don't do that too often.

SEN. BECK said the Select Committee appears to be, and we are trying to be, totally bipartisan. Equal representation. With your theory **SEN. DOHERTY**, we could have two Republicans and two Democrats voting the opposite direction from one House and the other. He thought it was a good amendment. He called for the question.

REP. HARPER asked who votes the majority. Say the bill is going to the House, was it a House Bill? Are the Senate votes counted?

SPEAKER MERCER said it was a policy question and it was a legitimate question as to how it was done. Obviously like on the Rules Committee if a member of a majority of the committee vote for something it can still fail because a majority of the House members didn't approve it.

REP. HARPER stated that this was not an unicameral state. We have two Houses and we have rules to address situations where committee votes mean something. In the interim committee, it really doesn't mean anything. He had a concern that the public was going to be locked out of at least one hearing. He also understood there were tax measures in the economical development proposal. There was an appropriation measure. He had a great concern that these issues will not be dealt with by the appropriate committees.

{Tape : 1; Side : B; Approx. Time Counter : 20.6}

REP. DAN HARRINGTON felt that the Jobs & Income Bills were every important to each one of us and the State of Montana. It had always been the statement both in the Appropriation Committee and the Taxation Committee that they have had the opportunity to look at each and every one of these bills. He believed that to bypass the Appropriation and Taxation Committee would or could create some serious problems.

REP. EMILY SWANSON stated she was serving on the Select Committee on Jobs and Income and this was a discussion we have tried to have in that Committee. She had several questions as to the affect of this amendment.

Mr. Petesch said step one of this concept would allow those bills to remain alive and not be automatically canceled because they were not yet introduced.

{Tape : 1; Side : B; Approx. Time Counter : 24.3}

REP. SWANSON said that the Select Committee had bills that they may or may not endorse. There may be an agency bill, for example, that the Department of Commerce will bring to this Committee on our December 29 and 30 meeting which the Select Committee may say we don't care to have our byline added to this bill. That bill which the Department of Commerce had not gotten a sponsor for because they have been waiting to have it be a committee bill will then be dead. Now she would understand through previous rules that it doesn't make it impossible for that bill to be picked up by an individual through a draft request and given that individual sponsor's name.

Mr. Petesch, Legislative Services Division, said that was correct although it would count against your four bill limit.

REP. SWANSON said the agencies need to be alerted to that fact and to the idea that they may want to have a sponsor on their bill even before it was considered by this committee so that in the case it was not adopted by the committee it doesn't die. Second issue was, that by pre introduction it doesn't mean hearings will take place prior to the convening of the Legislative Session.

MR. Petesch said currently there are no hearings on pre introduced bills until the Session convenes.

REP. SWANSON said that it does mean scheduling-wise a bill that this committee endorsed could be noticed for public hearing prior to the convening of the Session and that public hearing could occur day 1 or day 2 of the Session.

Mr. Petesch stated that was currently the case with all pre introduce bills.

REP. SWANSON asked **SEN. CRIPPEN** if his concern was that if a bill, an appropriation bill, was heard by this Select Committee goes immediately to Second Reading from the Select Committee, passes through Second and Third Reading, was passed through the

Senate and if you feel it was important that the bill be heard by Finance and Claims, or by Senate Taxation, that you have the ability to appoint it to the Committee and have a more thorough hearing.

PRESIDENT CRIPPEN said he was satisfied now.

REP. SWANSON had one other issue that might be of concern. The Select Committee would be a committee that would hear the bill, go to one House in order to fast track it and then it would go straight to the second House. If the House were to place a significant amendment on that bill, it might be important for the Select Committee again to hear that bill and would you have the option as President of the Senate to recall the Select Committee to hear the bill if you wanted to do that?

{Tape : 1; Side : B; Approx. Time Counter : 28.5}

PRESIDENT CRIPPEN said any time the Select Committee was constituted then the Select Committee doesn't have a deadline where it cease to do business. He thought it could be referred back or you have the option to refer it to another committee.

REP. SWANSON said she was concerned about her own caucus. There were a lot of people who were sort of hearing rumblings of what was going on, what was this fast track, or are they bypassing public input and the chance for caucus members and the public to digest these concepts and have their say in them. Are there that many bills being considered by the Select Committees? We anticipate significant financial consequences. If the personal property tax bill that **SEN. TAYLOR** was having drafted was the bill that goes through this committee we are talking about a fiscal impact in this biennium alone of 51 million dollars if reimbursement was entailed to local governments and schools. In the appropriation bills we are talking about appropriations of between 20 and 30 million dollars which will impact the financial picture for the state as a whole in a significant way. We will need some substantial time to bring our caucuses up to speed about these concepts and these bills.

PRESIDENT CRIPPEN thought that this was discretionary. It doesn't mandate that this goes on Second Reading. It said it may be referred to Second Reading. When it comes back they are in a position to decide if they want to fast track something, they can. If we feel as a legislative body that there ought to be more hearings or have a committee who has the expertise to deal with the particular issue like taxation, it can then be referred to that Committee.

SEN. HALLIGAN wanted to add something that hadn't been discussed. Every majority wants to make sure that their biggest part of the package comes out first because it sets the tone for the entire Session. We have done it before as the majority. You have to remember that the Select Committees whether it's the Economical Development one, or Corrections - that we had last time, always deal with controversial, highly complex issues. In my own revenue oversight we have the best minds working on all the electrical utility issues as well as lots of other things. The real important part was getting the bills in black and white so that the public can weigh in at the regular standing committees and get the details established. We've got Select Committees with great people working on things but you can never usually finish the complex and controversial issues involved. You've got to get that standing committee involvement or you are going to do it on the floor. That was when we make mistakes was when we try to do things on the floor without having that scrutiny from the committee. We are sacrificing scrutiny in a process for these controversial bills. That was a huge mistake and he would caution you to let's take a different approach. The minority ought to agree to let your package come out early. He thought that was an important thing for you to be able to do if that was what the majority wants to do but go through the normal hearing process because that was where you are going to get the details ironed out so you won't make mistakes.

CHAIRMAN HARP stated since you are chairman of a Joint Select Committee on CI-75 and he was sure with your leadership and guidance that some of those worries won't take place in that area with that issue. He looked forward to his leadership in that area.

SEN. DOHERTY said he would re echo **SEN. HALLIGAN'S** comments and he guessed the idea of changing the rules in order to move something faster through the process assumes that the existing standing committees can't move quickly. It assumes that Senate Appropriations and Senate Taxation can't appreciate the gravity or the seriousness of a particular matter and would be in able of moving that matter quickly. He worried about the language because as he read this package it would go from a Select Committee directly to the floor with an appropriation bill without going through the Appropriations Committee. It did seem to him that there was expertise in those committees which can be brought to bear to make any proposal a better proposal that will be accepted. He thought that one of his primary stumbling blocks with this proposal was that it gave preference to certain bills. He thought if there was anything that they might have gleaned from CI-75 was that the public wants to be fully involved in all kinds of decisions that we make up here.

CHAIRMAN HARP said without object there was a member of the House who would like to address us.

REP. BOB RANEY, HOUSE DISTRICT #26, said there was a point that no one had brought up yet. It was the concept of fast tracking and especially when you are fast tracking an administration's bill. If you were in the majority and the administration was in your party then maybe that makes some sense. Think for a moment that he was a Republican. He had a bill draft request called the Montana Economical Development Plan. He had been working with the people in his community and people across the state to come up with a counter proposal to that developed by the administration. We thought the administration proposal didn't work. He can't plug the numbers in until the LFD has given us their book on the analysis of the Governor's budget. There was no way for us to figure out where the money was coming from or flowing to, or how much individual agencies have decided they have to spend. We need to know all those things before we plug them into our bill. Before our bill gets to a committee you would have already fast tracked the administration's bill through and it could be very inferior to my bill or **REP. OHS'** bill might be. You already have determined that this was what we were going to do because we are in a hurry to solve a problem that has been ten or fifteen years developing. It will be ten or fifteen years to cure that we have to do right now in this first week and miss out on a tremendous amount of ideas that he thought were going to come forth. If you do this then you are saying individual legislators or groups of legislators and citizens will have no opportunity to introduce legislation that would do as good or better job.

CHAIRMAN HARP said this might be the first time where the Senate has actually been involved with a Select Committee. We have stayed away from this as much as we can. He knew the House has used a Select Committee a couple of different times. Nobody in Montana wants to see us stay in 50th place. They want a goal to see when we get to 40th and 30th. You go back four generations and Montana used to be in the upper 20s per capita income. We are now 50th. We have problems in this state and as elected representatives of state government we need to step up to the plate. We certainly are allowing some discretion with the word "may." The President of the Senate has spoken exactly what his intent was, and we will look at that very carefully. We also need to move forward and not delay things.

{Tape : 2; Side : A; Approx. Time Counter : 1}

REP. SWANSON said everyone was all in agreement with that. She would like to add an idea and was not quite sure about the proper

procedure. Thinking about what **REP. RANEY** has just introduced as an idea, she wondered if it wouldn't be a good idea to allow members of the Select Committee to allow certain bills to be upgraded in terms of consideration both drafting and bringing them to the front. That was in addition to the concept of how the Select Committee would work and she was throwing it on the table for discussion.

CHAIRMAN HARP asked for further discussion.

REP. HARPER said he had already voice his reaction to this but he wanted to restate what he thought was the worst part o this proposal. That was - it robs the public of an opportunity for a hearing the second time. The **SPEAKER** mentioned that the bill was not amended it could go directly to the second House but it doesn't say that. So you could have amendments and still avoid a hearing. If there were going to be hearings held by the Select Committee of both Houses then he thought this thing can work.

SPEAKER MERCER said it was his intention that the rule would have to say that it was unamended. Without objection he would like to be sure that it was in there because the concept was that if a bill came out of the Select Committee and went directly to the floor of the Chamber and it was not amended then it would not have to go through the committee. You have to remember public access can be in the eye of the beholder also. If someone comes to a Joint Select Committee on the Tuesday that a Session begins and they leave their home, work, or job where they are already underpaid, come over to Helena and testify and the bill has not changed but you require another hearing on the bill that person in going to have to come over again. He would request that language include the concept that the only circumstance in which it could be placed on Second Reading where there was no amendment to the bill.

CHAIRMAN HARP asked if it were understood by everybody.

{Tape : 2; Side : A; Approx. Time Counter : 5.5}

SEN. FRED THOMAS asked if **REP. HARPER** understood that we would not, this special committee, would not have a hearing and not invite the public. It was his assumption that the Select Committee would have a hearing, have the bill proposed and go through the same process.

REP. HARPER said the **SPEAKER** has stated his intention that the bills all have a hearing and the **SPEAKER** has stated his concern about the public and the public convenience. All he was asking was that these bills be treated as any other bill. A bill can

pass the House unamended and it still has a hearing in the Senate. Give people an opportunity for public hearing.

SEN. THOMAS said it seemed like that was still the case. He didn't want to leave the thought lingering here that a committee hearing would not be held and the public not invited.

REP. HARPER said the way he reads the bill it says now if the bill was unamended it may referred to the second House and placed on second reading without being referred to a committee.

CHAIRMAN HARP asked for further discussion.

SPEAKER MERCER stated that the interim committee or the Select Committee was meeting and there was a rule just so everyone knows that they vote by Committee. There is an existing rule that the **CHAIRMAN** pointed out that covered that issue. Essentially if they are going to meet and they see bills they want to do, they pass the bill out. Depending on whose carrying it, if they are a Senator or House member, the bill would go to the Second Reading in that body unless the presiding officer wanted to send it to another committee. Once it goes to the floor of that chamber and it was not amended, then the next chamber has the option to put it directly on Second Reading. The bill has had a full blown public hearing in the exact form in which it would be ultimately be voted on into law. If it was amended it does need a second hearing.

{Tape : 2; Side : A; Approx. Time Counter : 10.3}

REP. SWANSON asked **SPEAKER MERCER** about his concept on this Select Committee.

SPEAKER MERCER said if that Committee had not adopted it then they wouldn't have any rule on those bills unless they sought them and he would say if **Chairman DePratu** and **Chairman Ohs** came and wanted to convene and hear another bill, it could be looked at.

CHAIRMAN HARP said the question has been called.

Motion/Vote: Motion carried 14-10.

CHAIRMAN HARP said there were two issues that needed action. We had five requests that are currently in the Select Committee.

Greg Petesch, Legislative Services Division said he was actually seeking clarification of a point that **REP. SWANSON** raised. We have identified five bills that are requested by request of an

agency that the Select Committee had asked they present to them for their consideration at their next meeting. They may add them to their request package. He would ask clarification if you would like me to delay canceling those bills if they are not pre introduced to allow the Select Committee to make that determination.

CHAIRMAN HARP thought they should allow the Select Committee to make that determination. Motion, please.

Motion: **REP. GRINDE so moved.**

CHAIRMAN HARP asked for discussion and seeing none asked for vote.

Motion: Carried.

Greg Petesch, Legislative Services Division, said he would like permission to strike chapter 70 from the Joint Rules. That chapter deals with statements of intent and conference committees to deal with statements of intent. The last session we repealed the statutes authorizing statements of intent so we do not need rules to address how we deal with those since they no longer exist.

CHAIRMAN HARP asked for a motion.

REP. GRINDE made the motion.

Motion: Carried.

CHAIRMAN HARP asked for other business.

Greg Petesch said there are two proposal that we didn't take up that we suggested by the Legislative Improvement Sub Committee that are in the original material that was mailed to you. One of them was an amendment to Rule 40-60 on Joint Resolutions - to preclude Joint Resolutions. It was to be used for purposes of congratulating or recognizing an individual or group achievement and instead would be required those to be handled on Special Orders of the Day. The reason for that was the number of Joint Resolutions and simple resolutions that proliferated last Session congratulating every speech and debate or sports team in the State of Montana and the floor time they took up.

{Tape : 2; Side : A; Approx. Time Counter : 16.2}

CHAIRMAN HARP thought it was excellent. Motion.

Motion/Vote: SEN. HALLIGAN moved. Motion carried unanimously.

Greg Petesch said the other one was the recommendation that REP. COBB made that was adopted by the Legislative Sub Committee. It would allow the **SPEAKER, MINORITY LEADER, PRESIDENT OF THE SENATE,** and **MINORITY LEADER** of the Senate to direct the Legislative Services Division to assign a higher priority to 10 drafts each so that they would be moved to the top of the drafter's list. That would be 40 bills and it would give each caucus essentially the same priority for 10 bills.

Greg Petesch said the existing rule requires agreement by all four caucus leaders to assign priority to any draft. This would allow each individual caucus leader to assign priority to 10 drafts.

CHAIRMAN HARP moved the amendment.

Motion/Vote: SEN. HARP moved the **AMENDMENT.** Motion carried unanimously.

Greg Petesch, Legislative Services Division, said the other Legislative Improvement Sub Committee request. It was Rule 10-150. Currently the journals do not record the text of failed amendments and we now have the capability of displaying those amendments electronically. They are on the system and they have to be deleted. It simply makes sense that we print the text of the failed amendments and that became an issue this interim in front of the Administrative Code Committee where an agency was proposing a rule that the Senate had rejected as a floor amendment and we couldn't prove it because the text did not exist.

CHAIRMAN HARP asked for discussion. So moved.

Motion/Vote: SEN. HARP moved 101-150 amendment. Motion carried unanimously.

ADJOURNMENT

Adjournment: 11:55 A.M.

SEN. JOHN HARP, Chairman

Fredella D. Haab, Secretary

JH/fdh

EXHIBIT (rus00aad)